

FILED
Clerk
District Court

JUN - 7 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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Attorneys for Defendant
Maeda Pacific Corporation

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN MARIANA ISLANDS

TOSHIHIRO TAKAHASHI,

Plaintiff,

vs.

MAEDA PACIFIC CORPORATION,

Defendant.

CIVIL ACTION NO. CV 05-0026

OPPOSITION TO NOTICE OF ERRATA
AND SUPPLEMENT TO PRETRIAL
ORDER

In a filing dated June 7, 2006, Plaintiff, through his attorneys, James Livingstone and Victorino Torres, filed an errata with respect to its description of damages contained in the Jointly Prepared Final Pretrial Order dated May 15, 2006. (Exhibit A to Plaintiff's Notice). Specifically, Plaintiff seeks to revise the amount of damages sought for bodily injury etc., from \$300,000 to "At least \$300,000." Additionally, Plaintiff seeks to reduce the amounts of damages sought for items 1 through 3 and eliminate its request for lost revenues in light of the court ruling excluding evidence and testimony concerning economic loss based upon Plaintiff's failure to comply with the Court's Discovery Order.

Defendant, Maeda Pacific Corporation, does not object to the reductions set forth for items 2 and 3, but objects to the unlimited increase proposed by Plaintiff's in item 1 on the eve of trial. Out of a fundamental sense of fairness, Plaintiff's request to increase the damages sought to

1 an unlimited amount should be denied by the Court.

2 **SUPPLEMENT TO WITNESS LIST/DISPOSITION TO OUTSTANDING MOTIONS**

3 Other than the addition of the witness Hermino Cadaq,¹ any request to supplement
4 Plaintiff's witness list to add the names of yet unknown witnesses should be denied. Plaintiff's
5 counsel makes the following statement to the Court:

6
7 The Defendant revealed on May 26, 2006 for the first time that
8 additional individuals or companies were involved in the work site
9 at issue in this case. Defendant never revealed the fact that these
10 companies and individuals existed in its initial disclosure or
11 subsequent discovery. As a result of the his belated disclosure,
12 Plaintiff reserves the right to supplement the witness list."

13 To the extent that Plaintiff is now alleging for the first the time that it has
14 become aware of the involvement of other possible companies and individuals
15 involved in the work site, any delay in obtaining this information is the direct
16 result of Plaintiff's failure to conduct timely discovery, notwithstanding
17 Defendant's agreement to extend the discovery period.

18 This case has been pending for some time and the discovery cutoff expired
19 well before the May 26th deposition disclosure of which Plaintiff now complains.
20 Plaintiff made no attempt to take depositions until May 26, 2006, and waited until
21 shortly before the scheduled trial to take depose any of the Defendant's witnesses.
22 Given Plaintiff's delay in deposing Defendant's witnesses, it is incredulous that
23 Plaintiff can now represent to the Court that his failure to take any depositions of
24 the previously identified witnesses is somehow a sanctionable discovery violation
25 of the defense.


26 Moreover, the Defendant has consistently denied that it had any

27 ¹ At a meeting between the parties on June 7, 2006, to review the Exhibits, Plaintiff's counsel advised they wanted to
28 add the name of Hermino Cadaq to the witness list. Defendant has no objection to Mr. Cadaq being added to
Plaintiff's witness list.

1 responsibility concerning the pipes upon which Plaintiff alleges to have tripped.
2 In Paragraph 13 of the Complaint, Plaintiff alleged that Defendant placed two
3 metal pipes in one of the sidewalks, particularly in front of Remington's Club, the
4 southern part of Coral Tree Avenue." Complaint ¶ 13 Defendant specifically
5 denied the allegation contained in Paragraph 13 of the Complaint. Defendant's
6 Answer ¶ 14. Plaintiff made no further inquiry to this denial. In light of
7 Defendant's denial, it is inexplicable how Plaintiff can make its current
8 representation to the Court which is clearly on its face unsupported and
9 unfounded. Defendant does not take lightly Plaintiff's allegation of the
10 sanctionable discovery action and does not believe that such allegations should be
11 made as cavalierly as has been done.
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15 CARLSMITH BALL LLP

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17 DATED: Saipan, MP, June 7, 2006.

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19 JOHN D. OSBORN
20 Attorneys for Defendant
21 Maeda Pacific Corporation
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